

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA :

: 08 CR. 0590 (VM)

- against - :

: **ORDER**

:
NELSON PENA-SANTANA AND JOSE :
GONZALEZ, :

:
Defendants. :
-----X

VICTOR MARRERO, United States District Judge.

The Government (see attached letter) requests the exclusion of time until the next scheduled conference in this matter. The parties are directed to appear before the Court for a status conference on July 11, 2008 at 11:30 a.m.

All parties to this action consent to an exclusion of the adjourned time from the Speedy Trial Act until July 11, 2008.

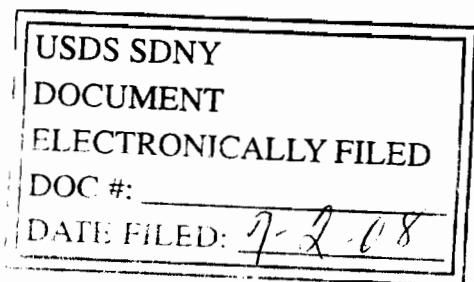
It is hereby ordered that the adjourned time shall be excluded from speedy trial calculations. This exclusion is designed to guarantee effectiveness of counsel and prevent any possible miscarriage of justice. The value of this exclusion outweighs the best interests of the defendants and the public to a speedy trial. This order of exclusion of time is made pursuant to 18 U.S.C. §§ 3161(h)(8)(B)(ii) & (iv).

SO ORDERED:

Dated: New York, New York
2 July 2008



Victor Marrero
U.S.D.J.





U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

July 1, 2008

BY FAX

Honorable Victor Marrero
United States District Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: United States v. Nelson Pena-Santana and Jose Gonzalez
08 Cr. 59T (LAP)

Dear Judge Marrero:

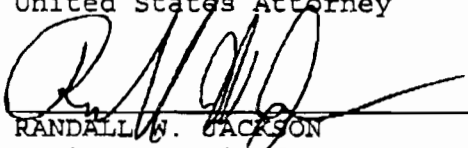
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The Government respectfully submits, as an attachment to this letter, a copy of the Indictment in the above-captioned case, which has been assigned to Your Honor. I have been advised by your chambers that the arraignment in this case has been referred to the duty magistrate judge and that the Court has scheduled an initial pre-trial conference for July 11, 2008, at 11:30 a.m. The Government respectfully requests that the Court exclude time under the Speedy Trial Act, 18 U.S.C. 3161, et seq., until the July 11, 2008, pre-trial conference. The Government is in the process of preparing discovery to be produced to the defendants, and the parties are engaged in discussions of a possible disposition of the case. For these reasons, the Government submits that the ends of justice served by the exclusion of time outweigh the best interest of the public and the defendant in a speedy trial.

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney

By:


RANDALL W. JACKSON

Assistant United States Attorney
Tel: (212) 637-1029
Fax: (212) 637-2390

cc: James Moriarty, Esq. (Atty. for defendant Pena-Santana)
Fax: (646) 487-0036
George Robert Goltzer (Atty. for defendant Gonzalez)
Fax: (212) 980-2968

Judge Marrero

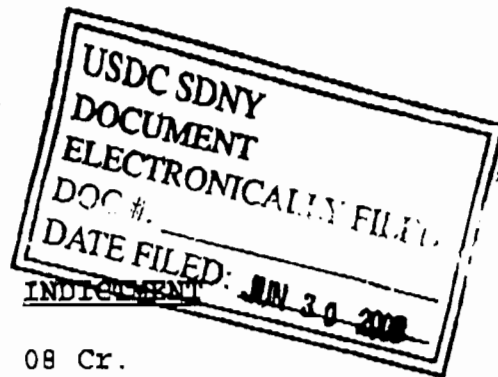
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

NELSON PENA-SANTANA,
a/k/a "Alex,"
JOSE GONZALEZ,
a/k/a "Chu,"

Defendants.



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COUNT ONE

The Grand Jury charges:

1. From at least in or about January 2008, up to and including in or about April 2008, in the Southern District of New York and elsewhere, NELSON PENA-SANTANA, a/k/a "Alex," and JOSE GONZALEZ, a/k/a "Chu," the defendants, and others known and unknown, unlawfully, intentionally, and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that NELSON PENA-SANTANA, a/k/a "Alex," and JOSE GONZALEZ, a/k/a "Chu," the defendants, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to wit, fifty grams and more of mixtures and substances containing a detectable amount of cocaine base, in a form commonly known as "crack," in violation of Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(A).

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York:

a. On or about March 17, 2008, in New York, New York, NELSON PENA-SANTANA, a/k/a "Alex," and JOSE GONZALEZ, a/k/a "Chu," the defendants, participated in a telephone call, during which PENA-SANTANA and GONZALEZ discussed the delivery of narcotics to other individuals not named herein.

b. On or about March 26, 2008, PENA-SANTANA and GONZALEZ possessed approximately 9.2 grams of cocaine base and 31 grams of powder cocaine in the vicinity of the intersection of West 173rd Street and Haven Avenue, New York, New York.

(Title 21, United States Code, Section 846.)

COUNT TWO

The Grand Jury further charges:

4. On or about March 26, 2008, in the Southern District of New York, NELSON PENA-SANTANA, a/k/a "Alex," and JOSE GONZALEZ, a/k/a "Chu," the defendants, unlawfully, intentionally, and knowingly did distribute and possess with intent to distribute a controlled substance, to wit, approximately 9.2 grams of mixtures and substances containing a detectable amount of cocaine base, in a form commonly known as "crack."

(Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(B);

Title 18, United States Code, Section 2.)

FORFEITURE ALLEGATION

5. As a result of committing the controlled substance offenses alleged in Counts One and Two of this Indictment, NELSON PENA-SANTANA, a/k/a "Alex," and JOSE GONZALEZ, a/k/a "Chu," the defendants, shall forfeit to the United States pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the said violations and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violation alleged in Counts One and Two of this Indictment.

Substitute Assets Provision

6. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third person;

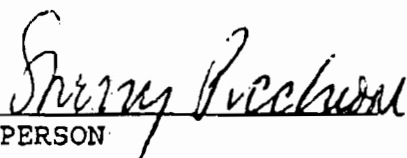
(c) has been placed beyond the jurisdiction of the Court;

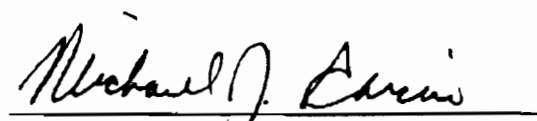
(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 21, United States Code, Sections 841(a)(1) and 853.)


FOREPERSON


MICHAEL J. GARCIA
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

NELSON PENA-SANTANA, a/k/a "Alex," and
JOSE GONZALEZ, a/k/a "Chu

Defendants.

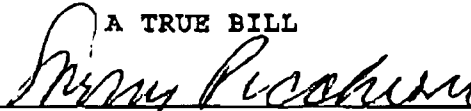
INDICTMENT

08 Cr.

(21 U.S.C. §§ 846, 812, 841(a)(1), 841(b)(1)(A), and
841(b)(1)(B); 18 U.S.C. § 2)

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL


For person.